

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER: 1561.00
COMPLAINT INVESTIGATOR: Jane Taylor-Holmes
DATE OF COMPLAINT: April 25, 2000
DATE OF REPORT: May 24, 2000
REQUEST FOR RECONSIDERATION: no
DATE OF CLOSURE: August 31, 2000

COMPLAINT ISSUES:

Whether the Culver Community School Corporation and the Joint Educational Services in Special Education violated:

511 IAC 7-12-1 with regard to the school's alleged failure to implement the student's *individualized education program* (the "*IEP*") as written, specifically, failing to implement the identified modifications;

511 IAC 7-12-1(g) with regard to the school's alleged failure to convene a case conference committee meeting prior to changing the student's placement to homebound instruction;

511 IAC 7-15-1 with regard to the school's alleged failure to follow the required procedures when suspending a student with a disability; and

34 CFR 300.342(b) with regard to the school's alleged failure to ensure that each teacher and service provider was made aware of the modifications or supports identified in the *IEP*.

FINDINGS OF FACT:

1. The Student is seven years old and is eligible for special education and related services as a first grade student with a learning disability.
2. The following modifications were written in the Student's *IEP* dated November 30, 1999, and are in the Student's current *IEP* dated April 10, 2000. The Complainant contends that they are not being implemented.
 - a. teach to auditory learning style;
 - b. provide seating arrangement that matches student needs; and
 - c. reduce/minimize visual/auditory distractions in classroom.
3. The Director reported that the Student's Teacher and teacher of record verbalize all instructions and expectations to make sure that the Student understands them. The Teacher submitted a written response with respect to the Student's seating assignment. Depending upon the Student's needs, the Student may sit at a desk that is in an area with calm music; he may be seated at the back of the classroom; at a study carrel; in a taped work area; or have his desk set apart from the other

students. The Teacher also reported in the written response what is used with respect to reducing any distractions that the Student may experience. Again depending upon the Student's needs, a noise buster may be used; the Student may be seated at the study carrel; he may have lunch in the library with a Buddy; verbal instructions are given; statewide assessments are administered in the conference room; seating the Student in the back of the classroom; utilize small instructional groups; Buddy helper; and routine on the board.

4. The report from the April 10, 2000 case conference committee (the "CCC") meeting also includes a statement from the Student's teacher of record who reported the methods used with respect to addressing the Student's seating arrangements and distractability.
5. The Student was suspended for five days from April 18, 2000 to April 25, 2000. The Assistant Director reported that because the Complainant had concerns about the Student returning to School when the suspension was over, an interim homebound instruction program ("Homebound") was established for the Student. The Student began receiving Homebound on or about April 24, 2000, until a CCC meeting could be convened. A CCC meeting was scheduled for May 11, 2000.
6. The Director submitted a two written statements indicating that the Principal met with six paraprofessionals, the music, art, and physical education teachers and discussed the Student's *IEP* and modifications. The paraprofessionals and the three teachers signed their names under the following statement. "This meeting took place early in the second semester of the 1999-200 school year."

CONCLUSIONS:

1. Findings of Fact #2, #3, and #4 indicate that the modifications to the Student's *IEP* have been implemented as written. No violation of 511 IAC 7-12-1 has occurred.
2. Finding of Fact #5 indicates that the Student's placement was changed to Homebound without benefit of a CCC meeting. A violation of 511 IAC 7-12-1(g) has occurred.
3. Finding of Fact #5 indicates that the Student was suspended for five consecutive days, which is allowable under Article 7. No violation of 511 IAC 7-15-1 occurred.
4. Finding of Fact #6 indicates that the School personnel were not informed of the Student's *IEP* and modifications until the second semester of the school year. A violation of 34 CFR 300.342(b) occurred.

The Department of Education, Division of Special Education requires corrective action based on the Findings of Fact and Conclusions listed above.

CORRECTIVE ACTION:

The Culver Community School Corporation and the Joint Educational Services in Special Education shall:

1. submit a statement assuring that if a change of placement is being proposed or considered for any student, the CCC will meet to discuss such before an actual change in programming occurs. A copy of the assurance statement shall be submitted to the Division no later than June 26, 2000.
2. conduct an inservice training with all teachers within the local school corporation regarding teacher of record responsibility, pursuant to 511 IAC 7-17-72, to ensure that each teacher and service

provider is aware of modifications or supports of student *IEPs* they are responsible for implementing. Documentation in the form of the inservice training agenda, any training materials, and a sign-in sheet of personnel trained by name and title shall be submitted to the Division no later than June 26, 2000.

DATE REPORT COMPLETED: May 24, 2000